

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DANIEL S. HOLCOMB,

Plaintiff,

v.

CHARLES BURNETT, JENNIFER  
MINKLER, GRAYS HARBOR COUNTY,  
GRAYS HARBOR COUNTY SHERIFF'S  
DEPARTMENT, CITY OF HOQUIAM,  
CITY OF HOQUIAM POLICE  
DEPARTMENT, SHANE KROHN, JAMES  
GADDIS, JEFF MYERS, STEWARD  
MENEFEE, CRAIG NEWMAN, MARK  
MCCAULEY, TED DUBRAY, GREG  
GILBERTSON, JEFF NILES, JOHN DOE  
BAULMOF, DENNIS LUSBY, JOHN DOE  
SHINN, BURNETT INSURANCE,

Defendants.

No. C14-5087 RBL-KLS

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

Before the Court is Plaintiff's motion for the appointment of counsel. Dkt. 8. Having carefully reviewed the motion and balance of the record, the Court finds that the motion should be denied.

**DISCUSSION**

No constitutional right exists to appointed counsel in a § 1983 action. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). *See also United States v. \$292,888.04 in U.S.*

1 *Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (“[a]ppointment of counsel under this section is  
2 discretionary, not mandatory.”) However, in “exceptional circumstances,” a district court may  
3 appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28  
4 U.S.C. § 1915(d)). *Rand v. Roland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *overruled on other*  
5 *grounds*, 154 F.3d 952 (9th Cir. 1998) (emphasis supplied.) To decide whether exceptional  
6 circumstances exist, the court must evaluate both “the likelihood of success on the merits [and]  
7 the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal  
8 issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (quoting  
9 *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts that show he  
10 has an insufficient grasp of his case or the legal issue involved and an inadequate ability to  
11 articulate the factual basis of his claim. *Agyeman v. Corrections Corp. of America*, 390 F.3d  
12 1101, 1103 (9<sup>th</sup> Cir. 2004).

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14 Plaintiff states that he cannot afford to hire counsel. Dkt. 8. However, the inability to  
15 hire counsel is not an exceptional circumstance warranting court appointment. This case does  
16 not involve complex facts or law and Plaintiff has shown an ability to articulate his claims in a  
17 clear fashion understandable to the Court. Further, Plaintiff has does not show that he is likely to  
18 succeed on the merits of his case.  
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20 Accordingly, it is **ORDERED**:

21 (1) Plaintiff’s motion for counsel (Dkt. 8) is **DENIED**.

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1 (2) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.

2 **DATED** this 3<sup>rd</sup> day of March, 2014.

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5 Karen L. Strombom  
6 United States Magistrate Judge  
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